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Handling of Class 1 (Explosive) Materials or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities

Regulatory Analysis for Final Rule

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**-Regulatory Evaluation-
HANDLING OF CLASS 1 (EXPLOSIVE)
MATERIALS OR OTHER DANGEROUS CARGOES
WITHIN OR CONTIGUOUS TO WATERFRONT
FACILITIES**

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HANDLING OF CLASS 1 (EXPLOSIVE) MATERIALS OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES

EXECUTIVE SUMMARY

This rule amends 33 CFR PART 126 to better address the hazards and precautions necessary for packaged hazardous materials, which have changed significantly with the advent of containerization. As amended, part 126 applies only to waterfront facilities handling packaged and bulk solid hazardous materials. This rule also incorporates up-to-date industry standards.

According to Coast Guard's data from Marine Safety Management System (MSMS), there are 485 waterfront facilities that handle, store, and transfer packaged and bulk solid hazardous materials to and from vessels.

We estimate that the maximum implementation cost of the rule is \$304 per affected facility. This cost includes 4 warning signs per facility at \$50 per sign, 1 international shore connection at \$100 per international shore connection and \$4 for posting warning signs per entity. The present value (in dollars 2002) of the total cost of this rule during 2002-2012, the period covered in this study, is \$111,425. No documented marine casualties were found in our databases that could have been prevented by the regulations. However the rule will contribute to a higher level of marine safety on waterfront facilities.

INTRODUCTION

Purpose

This Regulatory Evaluation provides supporting data and analysis for the Final Rule entitled Handling of Explosives Class 1 (Explosive) Materials or Other Dangerous Cargoes within or Contiguous to Waterfront Facilities.

Regulatory History

The regulations in 33 CFR Part 126 prescribe requirements for the transfer of hazardous materials between waterfront facilities and vessels and for the handling and storage of those materials while on facility. This rule sets minimum safety standards for the operation of waterfront facilities transferring packaged and bulk solid hazardous materials to and from vessels. The requirements were originally written in the 1950's and have not been significantly updated. On September 4, 1990, the Coast Guard published a final rule [5 FR 36252] amending part 126 to exclude its application to bulk liquid hazardous materials, other than certain liquefied gases. On August 3, 1995, the Coast Guard published a final rule [60 FR 39788] further amending part 126 to exclude its application to the remaining liquefied gases and to transfer the requirements for the control of liquefied hazardous gas from 33 CFR 126.15(o) to 33 CFR part 127.

On October 29, 1993, we published a Notice of Proposed Rulemaking (NPRM) entitled "Handling of Class 1 (Explosive) Materials or Other Dangerous Cargoes within or Contiguous to Waterfront Facilities" in the Federal Register (63 FR 57964). On January 12, 1999, we published a notice in the Federal Register reopening the comment period for this rulemaking (64 FR 1770). There were no comments received to the regulatory evaluation.

This rule applies to waterfront facilities transferring packaged and bulk solid hazardous materials to and from vessels. The final rule will set the minimum safety standards for the operation of the designated waterfront facilities.

REGULATORY EVALUATION

Costs

General Assumptions

1. In accordance with current Office of Management and Budget guidance, we calculated the present value of the costs developed for this rule with a discount rate of 7 percent. We expressed the present values (PV) in 2002 dollars.
2. We calculated the costs of this rulemaking from year 2002 through year 2012.
3. The annual number of affected waterfront facilities for the cost requirements is expected to remain constant during the period of analysis.

Industry costs

The cost of the rule accrues from the compliance of the affected waterfront facilities with the requirements set in 33 CFR part 126, paragraph 126.15(a)(3) and paragraph 126.15(a)(5). The Coast Guard estimated that 485 waterfront facilities handle, store, and transfer packaged and bulk solid hazardous material.

Paragraph 126.15(a)(3) (proposed section 126.15 (e)) requires that on all designated waterfront facilities, warning signs must be constructed and installed in accordance with NFPA (National Fire Protection Association) 307, Chapter 7-8.7. For the purpose of calculating the

cost of the rule we assume that each waterfront facility needs to have 4 warning signs. The warning signs can be purchased for an estimated price of \$50 per sign¹. We also assume that 50 percent of the waterfront facilities have the warning signs already posted or will manufacture them on site and have them posted with negligible costs. Therefore, they will not need to purchase warning signs. The remaining waterfront facilities, (243) will purchase the warning signs for a cost of \$48,600, and will post them for a cost of \$972².

We calculated the one-time costs incurred in year 2002 in order to comply with paragraph 126.15 (a)(3) to be at:
243(waterfront facilities) x 4 (signs per facility) x \$50 (per sign) + \$972 (cost of posting signs) = \$48,600 + \$972 = \$49,572.

Paragraph 126.15 (a)(5)(proposed section 126.15 (g)) requires waterfront facilities that receive foreign flag vessels, to have an international shore connection accessible for firefighting purposes. The international shore connection makes possible the connection between the foreign vessels' fire main connections and the U.S. fire hose connections³. We assume that 50 percent of the waterfront facilities already have the international shore connection in their inventory or it is provided at the facility by the local fire department. These facilities will not need to purchase an international shore connection. Therefore, the remaining waterfront facilities (243) that receive foreign flag vessels will purchase an international shore connection for an estimated price of \$100⁴.

We calculated the implementation cost in year 2002 in order to comply with paragraph 126.15(a)(5) to be at: 243 (waterfront facilities) x \$100(per international shore connection) = \$24,300.

We assume that the warning signs and the international shore connections are replaced every ten years. The ten year discounted present value for the warning signs and the international shore connections that will be replaced in

¹ We contacted manufacturers and distributors to estimate these costs.

² The cost for posting signs is estimated in the collection of information section of this analysis.

³ Often times the foreign vessels have fire main connections that are dissimilar to the U.S. fire hose fittings.

⁴ We contacted manufacturers and distributors to estimate these costs.

year 2012, is approximately \$37,553, as depicted in the Appendix.

Total costs

We estimate the present value of the total cost of the rule to owners/operators of designated waterfront facilities during the period of 2002 through 2012, at: \$111,425.

Benefits

The primary benefits to industry are the establishment of requirements that facilitate and foster industry compliance and improved safety methods due to the implementation of the updated industry standards. The requirements set in paragraph 126.15(a)(3) and paragraph 126.15(a)(5), will contribute to a higher level of marine safety on waterfront facilities.

We reviewed the casualty records for the designated waterfront facilities and found no cases that would have directly benefited from this rule. However, posting the new warning signs and requiring an international shore connection will contribute to a higher level of marine safety at the facilities.

SMALL ENTITIES

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the Coast Guard must consider whether this rule has a significant economic impact on a substantial number of small entities. Small entities include small businesses, and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and governmental jurisdictions with populations of less than 50,000.

There are 485 waterfront facilities that will be affected by this rule. We estimate that some facilities will not incur additional cost, while others will incur minimal cost. The economic impact per facility is of \$304 at most. This includes 4 warning signs at \$50 per sign, posting of the signs at \$4 per facility, and an

international shore connection at \$100 per connection. We do not consider this cost to be a significant economic impact. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

COLLECTION OF INFORMATION

This rule provides for a collection of information under the Paperwork reduction Act of 1995 (44 U.S.C. 3501). As defined in 5 CFR 1320.3(c), collection of information includes reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of the respondents, and an estimate of the total annual burden follows. Included in the estimate is the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Section 126.15(a)(3) (proposed section 126.15 (e)) requires that on all designated waterfront facilities, warning signs must be constructed and installed in accordance with NFPA (National Fire Protection Association) 307, Chapter 7-8.7.

According to Coast Guard Marine Safety Management System (MSMS) data, there are approximately 485 facilities that handle, store, and transfer packaged and bulk solid dangerous cargo that must post warning signs.

We assume that each designated waterfront facility needs to have 4 warning signs posted and that the warning signs are replaced every ten years. We also assume that 50% of the waterfront facilities have the warning signs already posted. The remaining waterfront facilities (243) will still have to post the warning signs. The average time to comply with this requirement per facility is estimated as (.25) hours. The total annual hour burden for these facilities, or respondents, is estimated to be 60.75 hours (243 facilities x 0.25 hours/facility).

Estimating the hourly wage of the person who posts the signs on the facility at \$16, the cost to respondents is \$972.

On October 29, 1993, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled "Handling of Class 1 (Explosive) Materials or Other Dangerous Cargoes

within or Contiguous to Waterfront Facilities" in the Federal Register (63 FR 57964). No information collection comments were received.

This rule amends an existing Office of Management and Budget (OMB) approved collection, OMB control number 2115-0054. As required by 44 U.S.C. 3507(d), we submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. OMB has not yet approved the changes to this collection. We will publish an additional notice when they do.

UNFUNDED MANDATES

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

FEDERALISM

We have analyzed this rule under E.O. 13132 and have determined that it does not have implications for federalism under that Order to warrant the preparation of a Federalism Assessment.

ENERGY EFFECTS

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.
Environment

We have considered the environmental impact of this rule and concluded that preparation of an Environmental Impact Statement is not necessary. An Environmental Assessment and a Finding of No Significant Impact are available in the docket where indicated under ADDRESSES. This rule concerns handling and storage procedures that have no environmental impact.

APPENDIX

Costs of Rulemaking. Current and Present Value.

Year	Warning Signs Costs	International shore connection costs	Total costs	Discounted costs	Accumulated discounted costs
	Dollars	Dollars	Dollars	Dollars	Dollars
2002	49,572	24,300	73,872	73,872	73,872
2003	0	0	0	0	73,872
2004	0	0	0	0	73,872
2005	0	0	0	0	73,872
2006	0	0	0	0	73,872
2007	0	0	0	0	73,872
2086	0	0	0	0	73,872
2009	0	0	0	0	73,872
2010	0	0	0	0	73,872
2011	0	0	0	0	73,872
2012	49,572	24,300	73,872	37,553	111,425
TOTAL	99,144	48,600	147,744	111,425	

Discounted to 2002 at 7 % per annum